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**LEASE
AND HOST COMMUNITY AGREEMENT**

Board Of Selectmen

This Lease and Host Community Agreement (the "Lease") is entered into on this 19th day of February, 2009 (the "Lease Execution Date"), by and between the Town of Holbrook, Massachusetts, acting through its Board of Selectmen, having an address of 50 North Franklin Street, Holbrook, Massachusetts 02343 (the "Town"), and Holbrook Environmental Logistical Partnership, LLC, a Massachusetts limited liability company, having an address of 300 Centre Street, Holbrook, Massachusetts 02343 (the "Tenant").

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration each to the other paid, receipt of which is hereby acknowledged, the parties hereby agree as follows:

I. PREMISES

1.1. Premises. Pursuant to the authority granted under Article 19 of the May 15, 2006 Annual Town Meeting, the affirmative vote on Question 2 of the Town wide election held April 1, 2008, and the general powers of the Board of Selectmen, the Town hereby leases to Tenant, and Tenant hereby leases from the Town, the property known and numbered as 3 Phillips Road, Holbrook, Massachusetts containing approximately 11 acres of land and depicted on Exhibit A attached hereto (the "Premises").

1.2. Condition of Premises. The Premises are delivered to Tenant and Tenant accepts the Premises in their present condition, "as is," it being agreed that Tenant has had an opportunity to examine and inspect the Premises in all respects, that the Town has made no representations or warranties of any kind with respect thereto and that the Town shall have no obligation to do any work on, or make any improvements to or with respect to, the Premises or the condition thereof pursuant to this Lease. Notwithstanding the foregoing, the parties acknowledge that Tenant has conducted an inspection of the Premises, and determined the Premises:

(a) is the location of a Disposal Site in accordance with the Massachusetts Contingency Plan ("MCP"), RTN #4-3024519 due to the documented historical presence of bis (2-ethylhexyl) phthalate, lead, C11-C22 aromatic hydrocarbons and beryllium found in soil samples; and

(b) is the location of additional contaminants, attributable to the same historical activities, designated by the Massachusetts Department of Environmental Protection as RTN #4-0019944.

II. PERMITTED USES; QUIET ENJOYMENT AND TITLE POLICY

2.1 Permitted Uses. Tenant shall use the Premises for the purpose of constructing and operating thereon a commercial solid waste transfer, management and recycling facility for the transfer of 1000 tons per day (“TPD”) of municipal solid waste (“MSW”) (the “Facility”) and for all uses incidental to the purposes stated herein including, but not limited to, related business uses; the use or razing of existing buildings located on the Premises; the use and development of rail lines located on the Premises including the construction and use of one or more rail spurs, access by contractors, consultants, other personnel, motor vehicles, and heavy equipment; the storage of equipment and materials; the baling, shredding, recycling and sorting of waste and for any and all purposes related to its use as a solid waste transfer, management and recycling facility (the “Permitted Uses”).

2.2 Quiet Enjoyment. Town agrees that Tenant, upon paying the Rent defined herein and on performing the other terms of this Lease, shall peaceably and quietly hold and enjoy the Premises during the Term of this Lease and any Extension Period (as defined below) without hindrance, interruption, disturbance or interference from Town or any person claiming an interest in the Premises by or through Town, and with all rights, privileges set forth herein and for the Permitted Uses.

2.3 Condition Precedent Regarding Falvey. As a condition precedent to Tenant’s obligations under this Lease, Tenant and Falvey Steel Castings, Inc. (“Falvey”) shall have entered into a sublease of a portion of the Premises on terms acceptable to Tenant.

2.4 Leasehold Title Policy. The Tenant’s obligations under this Lease are expressly conditioned upon its receipt of a leasehold title insurance commitment (the “Commitment”) prepared by a title insurance company (the “Title Company”) reasonably acceptable to Tenant naming Tenant as the proposed insured and committing to insure Tenant’s leasehold estate created under the terms of this Lease, subject only to such matters and exceptions that are reasonably acceptable to Tenant (the “Permitted Exceptions”). Tenant shall obtain the Commitment, at its sole cost and expense, within fifteen (15) days after the Lease Execution Date. Tenant shall have fifteen (15) days after receipt of the Commitment (the “Title Review Deadline”) to examine the Commitment. Tenant shall, on or before the Title Review Deadline, provide written objections, if any, to Landlord as to exceptions listed in the Commitment. If title is found to be objectionable to Tenant, Tenant shall notify Landlord in writing on or before the Title Review Deadline as to those matters to which it objects (“Tenant’s Title Objection Notice”). Landlord shall have fifteen (15) days after the date of receipt of such Tenant’s Title Objection Notice to notify Tenant in writing whether Landlord is willing or able to cure the objections (“Landlord’s Title Objection Response”). If Landlord fails timely to provide Landlord’s Title Objection Response, or if Landlord’s Title Objection Response indicates that Landlord is unable or unwilling to cure any or all of Tenant’s objections on or prior to ninety (90) days after the Lease Execution Date, then Tenant shall have the option of either (a) terminating this Lease or (b) waiving such objection(s) and proceeding with its obligations under this Lease. Notwithstanding the foregoing, Landlord shall have an obligation to cure or cause to be removed any exceptions that can be cured solely by the payment of money (i.e., taxes due and payable, mortgages or other encumbrances, mechanics’ or construction liens, etc. but excluding any fines

or monies due in consequence of the presence of hazardous materials at the Premises), shall deliver evidence of Landlord's status, power, and authority as required by the Title Company, shall execute and deliver an owner's and nonforeign affidavit and any other document reasonably required by the Title Company as a condition to the issuance of the title policy. Promptly after the execution of this Lease, the Town will deliver to Tenant copies of any prior policies or title commitments in its possession with respect to the Premises; however, the Town does not guarantee the accuracy of those documents and Tenant shall not be entitled to rely thereon. The cost of any title insurance premiums or other costs charged in connection with the issuance of the title policy shall be paid by Tenant.

III. TERM

3.1. Term of Lease. This Lease shall be effective as of the Lease Execution Date and shall supercede all previous agreements between the parties, including the License Agreement dated January 3, 2006. The Lease shall terminate twenty (20) years from the Rent Commencement Date as defined in Section 6.3, unless sooner terminated as expressly provided herein. A "Lease Year" shall be each successive twelve (12) month period commencing either (i) on the Rent Commencement Date, if the Rent Commencement Date is the first day of a month, or else (ii) the first day of the first full month following the Rent Commencement Date. If the Rent Commencement Date is other than the first day of a month, then the Term of the Lease shall be extended by the number of days between the Rent Commencement Date and the first day of the next full month. Any such partial month at the beginning of the Term shall be included in the first Lease Year, with the result that the first Lease Year may in fact include twelve (12) consecutive months, plus a partial month, and that the expiration of the Lease shall occur on the last day of a month.

3.2. Extension Periods. Tenant shall have the right to extend the Term of this Lease for twenty (20) years, for four (4) successive periods of five (5) years (each, an "Extension Period"), upon the same terms and conditions as set forth herein, so long as Tenant gives Town at least three (3) months' notice of its intention to exercise said right, and there has been no default under the Lease.

3.3. Application for Permits. Tenant shall exercise good faith and due diligence in applying for the Permits, defined in Article IV below, and time shall be of the essence in this provision. The parties acknowledge that it is impractical to apply for all Permits concurrently. Tenant shall, no later than ninety (90) days from the Lease Execution Date, apply for that permit recommended by Tenant's Licensed Site Professional as the optimal initial permit to be sought in the sequence of permits necessary for the construction of the Facility. Thereafter, Tenant shall apply for the remaining Permits, in accordance with the recommendation of Tenant's Licensed Site Professional, in a timely manner, exercising good faith and due diligence as required hereunder. Tenant shall provide the Town with copies of all applications and submittals and update the Town on a monthly basis as to the status of the permitting process.

3.4. Early Termination. Subject to Section 4.3 hereof, the parties agree that if the Permits and Rail Access (defined in Article IV below) have not been obtained within thirty-six (36) months from the Lease Execution Date; if the Facility construction has not been commenced

within six (6) months from the date the Permits and Rail Access are obtained; or if the Facility has not been completed within twenty-four (24) months from the date the Permits are obtained, the Town may elect to terminate this Lease upon ninety (90) days' written notice to the Tenant; provided, however, that if the Permits and Rail Access are obtained, the Facility construction is commenced or the Facility has been completed within such ninety (90) day period, whichever is applicable, such termination notice shall be null and void, and this Lease shall continue in full force and effect. Notwithstanding the foregoing, the Town agrees that it will not seek to terminate the Lease under this Section 3.4 during any period in which the Tenant has made substantial progress towards obtaining the Permits and Rail Access and/or constructing the Facility, and is actively and in good faith seeking final approval of the Permits and Rail Access and/or diligently pursuing completion of the Facility consistent with Section 4.3 hereof.

IV. PERMITS AND RAIL ACCESS

4.1. Permits. The obligations of Tenant to construct and operate the Facility, pay Rent, and provide the benefits referenced herein are contingent on Tenant's obtaining the following permits and approvals necessary to construct and operate the Facility (referred to, collectively, as the "Permits"), except to the extent otherwise specifically provided herein:

(a) *MA DEP/EOEEA Approvals*: obtaining from the Massachusetts Department of Environmental Protection ("MA DEP") and the Executive Office of Energy and Environmental Affairs ("EOEEA") all permits and approvals necessary for the construction and operation of a solid waste management and recycling facility, including but not limited to the following approvals:

- Certificate from the Secretary of the Executive Office of Energy and Environmental Affairs under MEPA
- MA DEP Site Suitability Approval under 310 CMR 16.00
- MA DEP authorization to Construct under 310 CMR 19.00
- MA DEP authorization to Operate under 310 CMR 19.00

(b) *EPA Approvals*: obtaining from the United States Environmental Protection Agency ("EPA") the following approvals:

- Amendments to Record of Decision ("ROD") issued by EPA regarding the abutting Baird and Maguire Superfund Site, as necessary or required.

(c) *Local Approvals*:

- Site Assignment approval under 310 CMR 16.00 and approval from the Holbrook Board of Health.
- Building Permit issued under Massachusetts Building Code, as applicable.

- Site Plan review by the Holbrook Planning Board.
- Land use or zoning approvals issued under G.L. c.40A and/or local zoning or non-zoning bylaws, as applicable.
- Order of Conditions issued under the Massachusetts Wetlands Protection Act and local wetland bylaw, as applicable.

4.2 Rail Access. The obligations of Tenant to construct and operate the Facility, pay Rent, and provide all other benefits referenced herein are contingent on Tenant obtaining all necessary approvals from CSX Transportation, Inc. (“CSX”) or such other rail carrier or carriers that may have authority to connect a rail spur to its existing track abutting the Premises and to enter into a side track agreement with CSX or such other rail carrier which is satisfactory to the Tenant for the operation of the rail spur during the term of this Lease (collectively, “Rail Access”).

4.3. Permitting Period/Appeals. Town agrees to cooperate with Tenant in procuring the Permits and Rail Access, to the extent such cooperation does not constitute a conflict of interest. Town shall review any and all applications for Permits with impartial consideration and in accordance with all applicable statutes and/or bylaws. Tenant shall assume fully all obligations under any such approvals and permits and releases, hold harmless and indemnify Town from all liabilities thereof except as limited by the last sentence of Section 5.2 hereof. Tenant shall use its commercial good faith and diligent efforts to obtain the Permits and Rail Access within thirty-six (36) months from the Lease Execution Date (the “Permit Period”). The failure of Tenant to obtain the Permits or Rail Access within said Permit Period shall not be grounds for termination of this Lease if the delay is caused by the lack of timely action by any permit granting authority or the appeal of any regulatory decisions or approvals necessary to commence construction and operate the Facility and Tenant diligently prosecutes or defends any such appeals. Notwithstanding the foregoing, the parties may mutually agree to extend said Permit Period. If Tenant, despite its diligent and good faith efforts, fails to obtain the Permits and Rail Access within thirty-six (36) months from the Lease Execution Date and any extensions thereof, this Lease may be terminated by the Town or Tenant by giving the other at least ninety (90) days’ prior written notice, whereupon all obligations under this Lease shall terminate, except those that are identified to survive the expiration or termination of this Lease. In such event, Tenant shall provide Town with copies of any and all documentation, including, but not limited to, reports, assessments, analyses, plans and applications to governmental agencies, generated by Tenant or third parties, related to obtaining the Permits.

Notwithstanding the foregoing, the Town shall in no event be required to join in or become a party to any proceedings in which it will oppose the Commonwealth of Massachusetts or any agency, authority, branch, division, office or subdivision of or for the Commonwealth of Massachusetts, nor shall the Town be required in connection with any such proceeding or otherwise to oppose in any way any policy previously established by the Town nor to take a position inconsistent with a position previously taken and made public by the Town. Tenant

acknowledges and agrees that the Town cannot guarantee that any Permit shall be granted and Town shall incur no liability for Tenant's failure to obtain any required Permit.

4.4. Relation to Approvals. In the event that any final permit or approval includes a condition which is inconsistent with any condition of this Lease, the more restrictive condition shall govern. No action by any local Board with jurisdiction over the Facility shall be deemed a breach of this Lease. Nothing contained herein shall be construed as preventing Tenant from terminating this Lease pursuant to Section 3.4, nor preventing Tenant from appealing any adverse decision relating to permits and approvals necessary for the construction and operation of the Facility.

4.5. Reports. During the Permit Period, every three months, the Tenant shall submit to the Town a written report or appear before the Board of Selectmen to verbally report on what progress has been made by Tenant in obtaining the Permits, specifying the Permits applied for, what steps Tenant has taken to obtain said Permits, the next steps to be taken, and such other information as the Town may reasonably require.

V. REMEDIATION

5.1. Remediation. Immediately after the Lease Execution Date, Tenant shall retain a Licensed Site Professional ("LSP") and shall authorize the LSP to develop a schedule for site remediation in cooperation with the Town, shall deliver to the Town a copy of that certain proposal, dated December 19, 2008, prepared by Woodard & Curran (the "Proposal") for Tenant concerning the preparation of a Phase I Initial Site Investigation and Tier Classification Submittal for the Premises, and shall direct Woodard & Curran to complete the work set forth in the Proposal at Tenant's expense. Further, Tenant shall take action to secure the Premises, including the installation and/or maintenance of fencing as necessary, to prevent access other than to Tenant, and to take reasonable actions to contain any further release of oil or hazardous material from the Premises. Upon obtaining the Permits and the Rail Access referenced in Section IV, the Tenant shall undertake such response actions as necessary to attain a level of "no significant risk" at the Premises in accordance with the MCP (collectively, the "Remediation"). Tenant shall cooperate with the Town in reviewing and responding to any order issued or administrative action taken by MA DEP with respect to the Premises regardless of when such order is issued or action is taken. Notwithstanding the foregoing obligations, the parties acknowledge that Tenant's obligation to begin and to complete the Remediation is contingent upon Tenant obtaining the Permits and Rail Access referenced under Article IV of this Lease.

5.2. Performance and Payment Bond. Upon obtaining the Permits and Rail Access referenced in Article IV, the Tenant shall furnish either a standing letter of credit to provide security in amounts and in form acceptable to the Town and which can be drawn upon by the Town, or a Performance Bond, naming the Town as the obligee/owner, in an amount at least equal to one hundred percent (100%) of the contract price, which contract price shall be based on an itemized cost estimate prepared by a licensed site professional retained and paid by the Tenant ("LSP"), as security for the faithful performance of the contract for the Remediation ("Contract Price"), and also a Payment Bond in an amount not less than one hundred percent (100%) of the Contract Price as security for the payment of all persons performing labor on the project under

the contract to remediate the environmental conditions on the Premises. The Town shall have thirty (30) days from receiving written notification of the proposed amounts of the letter of credit or Performance Bond and the Payment Bond, to object that the amount or amounts are not adequate, and retain an environmental consultant or other appropriate expert, at its own expense, who shall assess the adequacy of said amount(s). In the event this consultant and the LSP are not able to agree on the amounts, a third, independent consultant shall be agreed upon by the Town and the Tenant, compensation for whom shall be shared equally by the parties, whose assessment as to the amounts of the letter of credit or Performance Bond and the Payment Bond shall control. The amount of the letter of credit or the Performance Bond and the Payment Bond shall increase commensurate with any increase in the amount of the contract price of the cost of completing the Remediation. The Performance Bond and the Payment Bond may be in one or in separate instruments in accordance with local law, and in a commercially reasonable form acceptable to the Town. The Town shall have the right to use the letter of credit or the Performance and Payment Bond(s) in the event the Tenant fails to complete the Remediation. It is expressly acknowledged and agreed that the Tenant shall have no obligation to pay any Civil Administration Penalty that may be assessed against the Town or any other cost or expense related thereto as a result of its failure to take any action required under that certain Notice of Noncompliance, dated May 5, 2008, regarding the Premises, which was issued to the Town by the MA DEP, except to the extent that such failure is caused by Tenant's negligence or willful misconduct.

5.3. Conduct. During the Remediation, Tenant shall procure all necessary permits before undertaking any work on the Premises, and shall cause all such work to be performed in a good and workmanlike manner as required under applicable permits and consistent with the standards required thereunder. Tenant shall undertake the Remediation with due diligence and good faith in accordance with the requirements of MA DEP, and/or as stated in any applicable order or Administrative Consent Order ("ACO") relative to the Premises, as well as the requirements of the MCP. Tenant shall install fencing and other safety devices necessary to ensure the safety of persons on the Premises, adjacent property owners and their property and the general public. Tenant shall at all times comply with all applicable local, state and federal rules, regulations, statutes and by-laws. Upon obtaining the Permits and Rail Access referenced in Article IV and until the Remediation is complete, Tenant shall submit to the Town a report every three months prepared by the LSP specifying the actions taken during such period, the amount of the Contract Price, the steps that need to be taken to complete the Remediation, and such other information as the Town may reasonably require.

5.4 Satisfaction of Obligation for Remediation and Monitoring. Tenant's obligation to complete the Remediation shall be deemed satisfied upon a Class A, Class B or better Response Action Outcome ("RAO") having been achieved, and a Response Action Outcome Statement ("RAO Statement") having been submitted to the MA DEP by the LSP for the Disposal Site identified in RTN #4-3024519 confirming that the Remediation has been completed in compliance with the MCP. Upon achievement of a Class A, Class B or better RAO and submission of the RAO Statement, Tenant's obligation to maintain the letter of credit or Performance Bond and Payment Bond, as required in Section 5.2 herein, shall terminate, and Town shall deliver the originals of such documents and provide such other cooperation as is necessary to cause the termination or release of the letter of credit or Performance Bond and

Payment Bond, as the case may be. In the event that the Lease is terminated after Tenant becomes obligated to begin the Remediation, but prior to the date on which the RAO has been achieved, Tenant's obligations under Section 5.1 shall continue until the earlier of (a) the date on which the RAO shall have been achieved or (b) the date on which Town relets, sells or otherwise transfers possession of all or substantially all of the Premises to another person or entity. Notwithstanding the satisfaction of its Remediation obligations, during the Term of the Lease, Tenant shall remain obligated to conduct any and all monitoring of and/or continuing activities at the Premises required by MA DEP or US EPA, which obligation shall survive an early termination of the Lease (for a period equal to the amount of Term remaining in the absence of such early termination) only if such early termination is a result of a default or breach by Tenant under Section XVI or otherwise. Notwithstanding the foregoing, the parties acknowledge that Tenant's obligation to undertake and complete the Remediation is contingent upon Tenant obtaining the Permits and Rail Access referenced under Article IV of this Lease.

VI. RENT

6.1. Triple Net Lease. The Town and Tenant acknowledge and agree that this is an absolute triple net lease, and Tenant shall have the sole responsibility with regard to maintaining and operating the Premises. All payments of Rent shall be absolutely net to the Town so that this Lease shall yield to the Town the Rent herein specified in each year during the Term of this Lease free of any ad valorem real property taxes, taxes, assessments, charges, impositions or deductions of any kind charged, assessed or imposed on or against the Premises. The Town shall not be expected or required to pay any such charge, assessment or imposition, or furnish any services to the Premises or be under any obligation or liability hereunder. All costs, expenses and obligations of any kind relating to the maintenance of the Premises, including without limitation all alterations, repairs, restoration, reconstruction and replacements as hereinafter provided, which may arise or become due during the Term hereof, shall be paid by Tenant at Tenant's sole cost and expense. The Premises being Town owned land, real estate taxes will not be assessed against the property and neither party will be responsible for payment of same. Tenant will be responsible for all other taxes related to the Premises including personal property taxes.

6.2. Payment of Rent. Tenant covenants and agrees to pay the Town, without notice or demand therefore and without any deduction or set-off whatsoever, except as expressly otherwise provided herein, the Rent, as such term is defined below.

6.3. Rent Commencement Date. Tenant's obligation to pay Rent (defined below) shall commence on the Rent Commencement Date (the "Rent Commencement Date"). The Rent Commencement Date shall begin on the date all Permits and the Rail Access required for the operation of the Facility have been obtained and the Facility has been constructed and been duly licensed to operate and accept 1000 tons of waste per day. Payment of Base Rent shall be made in accordance with the provisions of Section 6.11 herein.

6.4. Rent. Beginning on the Rent Commencement Date, Tenant shall pay the Town the following fees based on each ton of waste that is delivered to and accepted by the Facility (other than waste which the Tenant is required to collect or receive without charge to the Town in

accordance with Section 6.8 hereof (“Holbrook Residents’ Waste”)) during the term of this Lease (collectively, “Base Rent”) in accordance with the following schedule:

Years 1-5: \$1.00 Per Ton

Years 6-20:	TPD	Fee Payable Per Ton
	0 to 400	\$1.00
	401 to 800	\$2.00
	801 to 1,000	\$3.00

The daily tonnage amounts and the respective fees payable per ton as set forth in the preceding schedule shall not include any amounts attributable to the Holbrook Residents’ Waste.

6.5. Rent Escalation. At the 7th anniversary of the Rent Commencement Date, the Base Rent shall escalate and shall escalate each Lease Year thereafter on the anniversary of the Rent Commencement Date by an amount determined by multiplying the percentage increase in the Consumer Price Index (“CPI”) for the previous year by the previous Lease Year's fee. The CPI is hereby defined to be the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Consumers, Boston Metropolitan Area (“CPI-U”). For example, if the CPI increases by 10% over the sixth Lease Year, the Rent for the seventh Lease Year shall be increased by 10%, per ton of waste. In no event shall the Rent for a Lease Year be less than the Rent for the previous Lease Year.

6.6 Consultant Fee. Tenant shall, upon execution of this Lease, pay in full to the Town costs of the Town’s consultant engaged to review and advise the Town on the business terms contained in this Lease; provided that, Tenant’s payment obligations hereunder are limited to \$6,105.

6.7. Falvey Sublease Payments. To the extent that a sublease is entered into between Tenant and Falvey, the sublease rent in the amount required under the sublease shall be deposited in an interest-bearing escrow account for the entire period of the sublease, including any extensions thereof, and may be used by Tenant to pay for reasonable and documented expenses directly related to Falvey’s use of the subleased premises. In the event that eviction proceedings must be undertaken to remove Falvey from the Premises at the conclusion of the sublease, including any extensions thereof, funds may be drawn from the escrow account to satisfy the costs of such eviction process. At the conclusion of any necessary eviction process, any remaining funds in the escrow account shall be released to the Town. To the extent that such funds are insufficient to satisfy the costs of such eviction process, Tenant shall deduct the additional costs thereof from rent owed to the Town under this Lease until all costs of eviction have been satisfied. Tenant shall use all reasonable measures to manage the costs of said eviction process. Should no eviction process be required to remove Falvey from the Premises at the conclusion of the sublease, including any extensions thereof, any amounts remaining in the above-referenced escrow account shall be released to the Town. Upon conclusion of the sublease, including any extensions thereof, and the vacating of the Premises by Falvey, Tenant shall continue to pay to the Town the amount of \$2,000.00 per month until such time as the Facility is in operation.

6.8. Disposal of Waste and Recyclables.

(a) As additional consideration for this Lease, Tenant shall, commencing on the later of the (i) date on which the Town's current contract for the disposal of waste terminates or is terminated and (ii) the date on which Tenant has obtained all authorizations necessary for the operation of the Facility and the Facility is eligible to accept residential solid waste, provide the Town with the following solid waste disposal services: (for the purposes of this Section 6.8, the "Town" shall include only the physical boundaries of the Town as in existence as of the date hereof):

(i) The Town may direct all of its residential solid waste to the Facility at no cost to the Town;

(ii) Tenant shall provide for the weekly collection of Town's residential and municipal solid waste at no cost to the Town;

(iii) Tenant will provide a manned residential and recycling drop off area for normal household residential waste, recyclables, yard waste, and certain bulky items provided all such waste, recyclables and items are generated by residents of Holbrook. The Tenant reserves the right to place reasonable limitations on the type and amount of yard waste and bulky items to be disposed of, per household, by residents of the Town. Without limiting the specificity of the foregoing, this benefit shall not include commercial waste generated from any business located within the limits of the Town or MSW from those sources set forth in subsection (c) below; and

(iv) Tenant shall provide for curbside recycling collection and disposal, every other week, at no cost to the Town. This benefit shall not include commercial waste from any business in the Town.

(b) In the event Tenant temporarily ceases to operate the Facility during the Term of this Lease, for any reason whatsoever, Tenant shall continue to collect all Holbrook residential solid waste and recyclables, and provide an alternate disposal site for residential waste and recyclables, at Tenant's sole cost.

(c) Residential solid waste shall not include waste emanating from apartment buildings, condominiums and multi-family homes containing more than ~~three~~ ^{four} units.

(d) The parties fully understand that the Tenant will be accepting waste from sources outside the Town of Holbrook and that it may continue to accept such waste at the Facility so long as Tenant fulfills its obligations to Town to dispose of the Town's waste in accordance with the foregoing provisions of this Section 6.8.

(e) The parties agree to negotiate with due diligence and in good faith to execute a separate, detailed residential and municipal solid waste collection and recycling agreement prior to the commencement of operations at the Facility. Such agreement shall more specifically set forth the terms and conditions set forth in this Section 6.8 regarding the obligations of the

Tenant, and shall, among other things, provide for the Tenant's delivery of a performance bond or other form of surety in a commercially reasonable form acceptable to the Town as security for the Tenant's performance of its obligations set forth in this Section 6.8. Collection of residential and municipal solid waste shall be limited as follows:

1. all residential homes (approximately 3,200 residential stops) – weekly
2. apartment complexes and residential condominiums of up to four units each – weekly
3. Holbrook Court Housing Complex – weekly
4. public schools (three) – weekly or as otherwise directed by the Superintendent of Public Works
5. municipal buildings (five) – weekly
6. residential condominiums – weekly
7. public solid waste collection containers at Holbrook Playground (including the Sean Joyce Field) and Brookville Playground – weekly
8. public safety building – weekly
9. public solid waste collection containers located in or around Holbrook Square (no more than six) - weekly

6.9. Other Charges. In addition to paying the Base Rent, Tenant shall also bear, pay, and discharge any and all general and special assessments, duties, fees or charges, water rates, sewer charges, and all other utilities or other charges of every kind and nature, including governmental or other impositions, charged, levied, assessed, or imposed, whether by federal, state, town, or any other public authority, during the Term hereof, in relation to the Premises, the improvements made thereon, and/or Tenant's use and operation of the Facility (the "Other Charges").

6.10. Rent. The Base Rent and all other fees, expenses and other payments required to be made by Tenant under this Lease are referred to collectively, as "Rent."

6.11. Payment of Base Rent. Base Rent for waste shall be paid, in arrears, on the 30th day of each month following the Rent Commencement Date. All other payments due hereunder shall be paid within thirty (30) days of receipt of an invoice from the Town, or as otherwise due if payable to a third party.

6.12. Interest. Any payment of Rent that is not received by the due date shall bear interest from the date due until paid at the lesser of 18% per annum or the maximum lawful rate of interest.

VII. ACCESS TO PREMISES

With the exception of Rail Access, subject to any regulatory and/or permitting requirements, access to and egress from the Premises shall be solely along the roads, streets and trails as shown on Exhibit B, attached hereto, and incorporated herein. If ingress and egress is ever denied to Tenant by action or inaction of the Town, Rent shall abate, Tenant's obligations

under this Lease shall be suspended, and the Town and Tenant shall diligently work together to restore access to the Premises

VIII. UTILITIES

8.1. Installation of Utilities. Tenant acknowledges that the Town shall have no obligation to provide utilities to the Premises, and agrees that Tenant shall be responsible, at its sole cost and expense, for installing and providing utilities to serve the Facility. The Town agrees to cooperate with Tenant in granting licenses or easements to public utility companies and other appropriate entities, easements over, under and through the Premises as may be required by such companies and entities in connection with the servicing of the Premises, including, without limitation, easements required for electric, water, sanitary sewer, storm water drainage, and telephone and telecommunications service. Tenant shall have the right, at its sole expense, to connect to all common utilities and to enter into agreements with utility and similar service companies and providers as are required in order to service the Premises, and may do so in its name, in the Town's name, or in both of their names. Tenant covenants and agrees to hold the Town harmless from any costs, fees and/or charges incurred in connection herewith, and to pay on demand any and all costs incurred by the Town for utilities and similar services.

8.2. Payment of Utilities. Tenant shall contract directly with applicable providers for all utilities to be supplied to the Premises, and pay the bills therefor promptly upon receipt of the same. Tenant shall, if requested by the Town, provide the Town with evidence of payment of utilities. If Tenant fails to pay the same when due, the Town shall have the right, but not the obligation, to pay the same, and to charge Tenant the costs thereof, which shall be paid promptly by Tenant upon demand. The Town shall have the same remedies as to nonpayment of utility charges as it has for nonpayment of Rent.

IX. CONSTRUCTION OBLIGATIONS

9.1. General Provisions Governing Construction of Facility and Other Improvements. The following provisions shall apply to the construction of the Facility, and any other improvements made on or to the Premises any time during the Term of this Lease (collectively, the "Improvements"):

- (a) No contractor shall commence construction of any Improvements until all permits, certificates, and approvals required by law for the commencement of such construction have been issued. Tenant, upon the Town's request, shall deliver to the Town copies of all such permits, certificates and approvals.
- (b) Once commenced, the construction of the Improvements shall be prosecuted with diligence.
- (c) Each contractor shall warrant to Tenant and the Town that all materials and fixtures furnished by such contractor will be new, and that all construction work will be of good quality, free from faults and defects. Construction work not

conforming to these requirements may be considered defective and not in conformity with the terms of this Lease.

- (d) Each contractor shall be obligated at all times to keep the Premises reasonably free from accumulation of construction-related waste materials or rubbish caused by its operations. At the completion of the contractor's work, the contractor shall remove all waste materials and rubbish from the Premises as well as all tools, construction equipment, and surplus materials. If any contractor fails to comply with these provisions, it shall be the responsibility of Tenant to do so.
- (e) Each contractor under a contract with Tenant shall be required to furnish and keep in force a performance bond and a labor and materials payment bond in an amount sufficient to guarantee the faithful performance of its obligations under such contract and to pay all obligations arising in connection therewith, which bond shall name the Town as the owner.

9.2. Insurance. In addition to Tenant carrying the insurance required under Article XIV, when any construction of the Improvements is in progress, Tenant shall require its contractors to maintain (i) worker's compensation insurance in the amounts required by law (or reasonably comparable insurance if such insurance is no longer available), (ii) builder's risk (or such reasonably comparable insurance) insurance on an "all risk" basis (including collapse) insuring against casualty to such construction for full replacement value of the Improvements to be constructed and the equipment, supplies and materials furnished and stored, (iii) automobile liability insurance in the minimum amounts required by law with limits of liability not less than \$1,000,000 per occurrence for property damage and \$2,000,000 combined single limit, (iv) Employer's Liability Insurance affording protection in the amount of not less than \$500,000 per occurrence, (v) commercial general liability with a limit of not less than \$1,000,000 per occurrence and \$3,000,000 combined single limit.

9.3. Mechanic's Liens and Other Encumbrances. Tenant shall not suffer or permit any mechanic's or other liens to be filed or placed or to exist against the Town's interest in the Premises or against Tenant's interest in the Improvements by reason of work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone claiming by, through or under Tenant. If any such mechanic's lien shall at any time be filed against the Premises, Tenant shall cause the same to be discharged of record or by appropriate proceedings have such lien replaced with a bond or otherwise removed of record within sixty (60) days after notice from the Town. If Tenant shall fail to discharge such liens within such period or fail to furnish such security, then the Town may, but shall not be obligated to, discharge the same by procuring the discharge of such lien by giving security or in such other manner as is, or may be, prescribed by law, and Tenant agrees to reimburse the Town promptly upon demand for all costs, expenses and other sums of money in connection therewith as Rent, with interest. All materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter who contract with Tenant for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Property are hereby charged with notice that they must look exclusively to Tenant to obtain payment for same.

9.4. Payment for Improvements. Tenant shall be responsible for undertaking and completing the Improvements at its sole cost and expense. Tenant acknowledges and agrees that the Town shall not be liable for any costs, expenses, fees, and any other charges associated with the Improvements or Tenant's use of the Premises, or otherwise.

9.5. Quality of Work. Tenant shall cause all the Improvements to be constructed in a good and workmanlike manner, employing materials of prime quality, consistent with the requirements of the applicable permitting authorities.

9.6. Provision of As-Built Plans. Upon completion of the Improvements, and in the event of any modification to the Improvements, Tenant shall provide Town with as-built plans accurately depicting the work done to the Premises.

9.7. Compliance with Laws, Regulations, and Codes. Tenant shall undertake any and all Improvements in compliance with all applicable federal, state or local laws, regulations, codes and bylaws.

9.8. Compliance with the Town's Rules and Regulations. Tenant and Tenant's employees, agents, customers, invitees and licensees shall observe and comply with all reasonable rules and regulations as established from time to time by the Town with respect to the manner of conducting business in the Premises and the upkeep and the use of the Premises.

9.9. Ownership of Improvements. During the Term, including any Extension Period of this Lease, the Facility, and all other improvements erected, constructed, installed or placed upon the Premises by Tenant, or at the expense of Tenant, shall automatically vest in and belong to Tenant. Without limiting the generality of the foregoing, during the Term of this Lease, Tenant alone shall be entitled, to the extent permitted by law, to claim investment credits, depreciation and other tax benefits for all purposes on the Improvements, on all machinery, equipment and trade fixtures and all additions, alterations, replacements and substitutions now or hereafter constructed, installed or placed by Tenant upon the Premises. Subject to the limitations set forth in Articles XIV and XV and the rights granted to the Tenant in Article XX hereof, upon the termination of the Lease, title to the Facility shall automatically pass to, vest in and become the property of the Town. Tenant shall promptly execute any and all documents necessary to the transfer of such title.

X. MAINTENANCE AND OPERATION

10.1. Maintenance. Except for the Town's remediation obligations existing as of the date hereof (which Tenant shall be required to undertake upon the issuance of the Permits and Rail Access in accordance with Section 5.1 hereof), Tenant acknowledges that the Town shall have no obligation to maintain the Premises. Tenant agrees that it shall be solely responsible for maintaining the Premises in good order and condition throughout the Term of this Lease, all at its sole cost and expense. Tenant shall be responsible for plowing and removing snow and ice from the Premises. Tenant hereby releases the Town from any obligation imposed by law upon landlords generally for such removal of snow and ice, and shall indemnify, defend and save harmless the Town from any and all liability for claims arising out of Tenant's failure to

adequately maintain the Premises in a safe condition consistent with all laws, rules or regulations applicable to the use of the Premises and the operation of the Facility.

10.2. Failure to Maintain. If Tenant shall fail to keep the Premises in the condition required herein, or if repairs are required to be made by Tenant pursuant to the terms hereof, within thirty (30) days after notice by the Town (or without notice in any emergency, immediately threatening life or property), the Town shall have the right (but shall not be obligated) to make such repairs, replacements or perform maintenance work or any other work required of Tenant pursuant to this Lease and charge the reasonable cost thereof to Tenant as Rent, with interest.

XI. FINANCING

11.1. Mortgage of Leasehold Interest. Tenant may mortgage its leasehold interest in the Premises only in accordance with the following:

- (a) The Town acknowledges that Tenant may seek construction and permanent financing to enable Tenant to construct and operate the Facility, and undertake other improvements on the Premises. Tenant agrees that, at no time during the term of this Lease shall the Premises, or Tenant's leasehold interest therein, be mortgaged to finance the development of any other project(s) undertaken by Tenant, or for the benefit of any entity associated with Tenant. The Town further acknowledges that a permanent lender or lenders and a construction lender or lenders will look to this Lease as security for any funds it may lend to Tenant and, accordingly, may require Tenant to mortgage its leasehold estate in the Premises. Consequently, Tenant may mortgage or otherwise encumber the leasehold estate created by this Lease under one or more leasehold mortgages and assign this Lease as security for such mortgage or mortgages, in accordance with the provisions of this Section, subject to prior approval of the Town, which approval may not be unreasonably withheld. Any and all such mortgage(s) shall mature no later than the last day of the Term of this Lease, and shall be a leasehold mortgage only. It is expressly understood and agreed that Tenant has no right to mortgage or otherwise encumber the fee title to the Premises. Any lender of Tenant who is granted a mortgage of Tenant's leasehold interest shall be referred to as a "Mortgagee." The Town shall execute and deliver all documents reasonably and customarily required by such Mortgagee or Mortgagee's attorney or by the title company insuring the mortgage or by any combination of them, specifically including subordination documents if a notice of lease is recorded and appropriate estoppel certificates. The mortgage may contain language to the effect that the Town executes the mortgage solely for the purpose of acknowledging encumbering of the leasehold estate and shall contain language stating that the Town does not assume any personal liability whatsoever for the payment of any note secured by the mortgage or for the performance of any other provisions of said note or mortgage.

- (b) In the event Tenant receives notice of any assignment of any mortgage or in the event of a change of address of a Mortgagee or of an assignee of the mortgage, notice of any new name and address shall be given to Town within ten (10) days of Tenant's receipt of such notice. After Town has received notice of a mortgage from a Mortgagee, Tenant shall provide Town with copies of the note or other obligation secured by the mortgage and of any other documents pertinent to the mortgage. Tenant shall also provide Town with copies of each amendment or other modification or supplement to the mortgage or related instruments.
- (c) In the event Tenant is in default under its agreement with a Mortgagee, Town and Tenant expressly agree that the Mortgagee shall be entitled to enter upon the Premises, to perform such curative acts as may be necessary, and to operate and manage the Premises, subject to any and all existing laws, regulations, conditions or restrictions, either in its own name or right or on behalf of Tenant, subject to the terms of this Lease. Prior notice of such entry shall be provided to Town and Tenant shall include such condition in any mortgage in relation to the Premises. Nothing herein contained shall require any Mortgagee or its designee, as a condition to its exercise of rights hereunder, to cure any default of Tenant that may not reasonably be cured by such Mortgagee or designee in order to comply with the provisions of this Section.
- (d) Each Mortgagee shall enjoy the rights granted under this Section until such time as its loan to Tenant is repaid and the mortgage or mortgages securing such payment is released. Each Mortgagee shall be entitled, but not required, to exercise such rights within its sole discretion.
- (e) Tenant, at any time and from time to time, may refinance its investment in the Premises and any Improvements and may assign its interest under this Lease as security for any such refinancing, subject to the same restrictions as set out above in this Section. Each refinancing lender shall be entitled to become a Mortgagee and to exercise all of the rights and privileges granted to a Mortgagee under the terms of this Lease. Nothing in this paragraph or this Lease shall limit Tenant's rights or discretion with respect to construction financing for Improvements.
- (f) Notwithstanding anything to the contrary contained herein, Tenant shall use its best efforts to deliver to the Town any document Town is required to execute hereunder not less than thirty (30) days from the date such document is required to be executed by Town.

XII. HAZARDOUS MATERIALS

12.1. Hazardous Materials Activities. Except for the materials currently on the Premises and subject to Remediation as contemplated in Section 5.1 hereof, Tenant shall not cause any hazardous materials or toxic wastes, hazardous or toxic substances or hazardous or toxic materials (collectively "Hazardous Materials") to be used, generated, stored or disposed of on, under or about, or transported to or from the Premises (collectively "Hazardous Materials")

Activities”) without first receiving the Board of Health’s written consent, which may be withheld for any reason or revoked at any time. If the Board of Health consents to any such Hazardous Materials Activities, Tenant shall conduct them in compliance with all applicable regulations, as hereinafter defined, using all necessary and appropriate precautions, and shall not cause or permit any release or threat of release of Hazardous Materials. In the event of a release or threat of release of any Hazardous Materials on account of any Hazardous Materials Activities of Tenant or its employees, agents, contractors, licensees or invitees (“Hazardous Waste Incident”), Tenant shall conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up the release or eliminate the threat of release in accordance with all applicable legal requirements. The Town shall not be liable to Tenant under this Lease for any Hazardous Materials Activities by Tenant, Tenant’s employees, agents, contractors, licensees or invitees or any other third-party, whether or not consented to by the Town.

For purposes of this Lease, Hazardous Materials shall include, but not be limited to, gasoline of all types and all substances defined as “hazardous substances”, “toxic substances”, “oil” or “hazardous wastes” in any federal, state or applicable local statute now or hereinafter enacted concerning Hazardous Materials, or in any regulation adopted or publication promulgated pursuant to said statutes.

Prior to using, storing or maintaining any Hazardous Materials on or about the Premises, Tenant shall provide the Board of Health with a list of the types and quantities thereof, and shall update such list as necessary for continued accuracy. Tenant shall also provide the Board of Health with a copy of any Hazardous Materials inventory statement required by any applicable regulations, and any update filed in accordance with any applicable regulations. If Tenant’s activities violate or create a risk of violation of any regulation, Tenant shall cease such activities immediately upon notice from the Board of Health. Tenant shall notify the Board of Health immediately by telephone and in writing of any release or discharge of Hazardous Materials or of any condition constituting a threat of release of Hazardous Materials. The Board of Health may (but shall not be obligated to) enter upon the Premises at any time during the Term of this Lease to inspect Tenant’s compliance herewith, and may disclose any violation of any regulation to any governmental agency with jurisdiction.

Nothing herein shall prohibit Tenant from using minimal amounts of oil, solvents, or other substances which may constitute Hazardous Materials in carrying out Tenant’s obligations under this Lease, or in operating the Facility upon the Premises in accordance with this Lease, provided that such use is in compliance with all regulations and shall be subject to all of the other provisions of this Lease. Any use of the Premises to conduct household hazardous waste collection shall be subject to the prior written approval of the Board of Health.

12.2. Indemnification for Hazardous Materials Incident. Tenant shall indemnify and hold the Town and its boards, officers, employees, and agents harmless from all claims, damages, costs and liabilities incurred by the Town arising out of a Hazardous Materials Incident, which indemnity will survive the expiration or termination of this Lease.

12.3. Site Assessment. The Town reserves the right to conduct a reasonable and necessary site assessment of the Premises at any time during the Term of this Lease; provided that a representative of Tenant shall have the right to accompany any representative of the Town on any such site assessment. The Town shall, however, provide Tenant with reasonable prior written notice of its intended entry on the Premises for the purpose of conducting such assessment and shall not unreasonably interfere with Tenant's use of the Premises during such assessment. The Town shall bear all expenses related to such assessment. If, however, the results of such assessment indicate there exists on the Premises any environmental condition that constitutes a release or threat of release of oil or Hazardous Materials as defined above, which is caused by the Tenant, or its agents, employees, contractors, representatives and licensees, and will require the expenditure of money to effect a cleanup or other remedial efforts, then, in that event Tenant shall reimburse the Town for all reasonable and necessary costs incurred for such assessment, and shall promptly undertake such cleanup or other remedial action at its sole expense subject to the terms of this indemnity.

12.4. Notice of Release or Threatened Release. Upon obtaining knowledge of any release or threatened release of oil or hazardous or toxic materials on or from the Premises, Tenant shall immediately notify the Town of such release or threatened release of oil or hazardous or toxic materials, whether or not such release or threatened release is caused by Tenant or its agents, employees, contractors, representatives and licensees. Failure to so notify the Town shall be deemed a material breach of the Lease for which the Town may terminate the Lease.

12.5. Breach. Failure of Tenant to undertake any and all obligations required of Tenant under the provisions of this Article XII shall be deemed a material breach of the Lease for which the Town may terminate the Lease.

XIII. INDEMNIFICATION, RELEASE

Tenant agrees to release, indemnify, save, defend and hold harmless the Town and any person or persons in privity of estate or contract with the Town, with respect to the Premises, from and against any and all liabilities, claims, demands, losses, costs, forfeitures, or damages, and all out-of-pocket expenses, including reasonable legal fees and court costs of whatever nature, arising from any act, omission or negligence of Tenant, Tenant's contractors, licensees, agents, servants, employees, customers, and invitees, or anyone claiming by, through or under Tenant, or arising, directly or indirectly, from any accident, injury or damage whatsoever, however caused, to any person, or to the property of any person, during the Term of this Lease, and thereafter, so long as Tenant or any person claiming under Tenant uses any part of the Premises, to the extent such accident, injury or damage results from or is caused by any intentional act, omission or negligence on the part of or in the use of the Premises by Tenant or Tenant's contractors, licensees, agents, servants, employees, customers, or invitees, or anyone claiming by, through or under Tenant, or the operation of the Facility, unless such liability is determined to be directly attributable to the Town's negligence or intentional acts.

The foregoing indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding

brought thereon, including attorneys' fees, and the defense thereof with counsel acceptable to the Town or counsel selected by an insurance company which has accepted liability for any such claim.

Notwithstanding anything herein to the contrary, Tenant shall have no obligation to indemnify and hold harmless Town for or in connection with any liabilities, claims, demands, losses, costs, forfeitures or damages arising from or related to the use or possession of the Premises by Falvey, or to any act or negligence of Falvey or its employees, licensees, agents or invitees. As a condition precedent to the effectiveness of the foregoing provision, the language set forth on Schedule XIII hereto, with only those modifications as are acceptable to Town, shall be included in the sublease to Falvey.

To the maximum extent this Lease may be made effective according to law, Tenant agrees to use and occupy the Premises at the Tenant's own risk, and the Town shall have no responsibility or liability for any loss or damage to fixtures or other personal property of Tenant or any person claiming by, through or under Tenant.

XIV. INSURANCE; DAMAGE AND RESTORATION

14.1 Tenant's Insurance Obligation. During the Term of this Lease, Tenant shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained, policies of insurance for the benefit of the parties, in the amounts, and in the manner and form set forth in this Section; provided, however, that no coverage provided for herein shall be reduced without the prior written approval of the Town. The kinds and amounts of such insurance coverage shall not be less than the kinds and amounts designated herein, and Tenant agrees that the stipulation herein of the kinds and minimum amounts of insurance coverage, or the acceptance by the Town of Certificates of Insurance indicating the kinds and limits of coverage shall in no way limit the liability of Tenant to any such kinds and amounts of insurance coverage.

14.2. Acceptable Insurers. The insurance required hereunder shall be underwritten with an insurance company or companies licensed to write such insurance in the Commonwealth of Massachusetts and acceptable to the Town. Where no insurer so licensed in Massachusetts will provide the required coverage, the insurer shall, at minimum, be approved to do business in Massachusetts (listed on the current "White List") of the Massachusetts Insurance Department.

14.3. Required Coverages. The insurance required shall consist of the following:

- (a) Commercial General Liability policy on a per occurrence basis endorsed to include broad form comprehensive general liability with a combined single limit of liability of not less than \$3,000,000; or a Commercial General Liability policy on an occurrence basis with a general aggregate limit of not less than \$3,000,000, a Products/Completed Operations aggregate limit of not less than \$1,000,000, and a limit of liability each occurrence of not less than \$3,000,000.

- (b) Automobile Liability and Property Damage insurance for any auto including but not limiting coverage to owned, non-owned and hired automobiles in the amount of \$2,000,000 each accident for bodily injury and property damage.
- (c) Commercial Property policy covering the Facility and other Improvements on the Premises, in an amount equal to at least one hundred percent (100%) of the replacement cost of the Facility and such other Improvements.
- (d) Workers' Compensation Insurance as required by law and Employer's Liability insurance for at least the amounts of liability for bodily injury by accident of \$1,000,000 for each accident; bodily injury by disease each employee of \$1,000,000; and bodily injury by disease policy limit of \$1,000,000, or such greater amount as may be required from time to time by the laws of the Commonwealth of Massachusetts.

14.4. Increases in Coverage. On the 5th anniversary of the Lease Execution Date, and every five years thereafter, or upon the Town's reasonable request which shall occur not more often than once every three years, the limits of any of the above-mentioned insurance coverages shall be increased at the written request of the Town to amounts reasonably requested by the Town, but not to exceed the amounts of coverage generally maintained at the time in question for similar businesses or properties in Massachusetts.

14.5. Other Matters. The Town shall be named as an additional insured on all insurance policies. All required insurance shall be written with such companies qualified to do business in Massachusetts, as Tenant shall select and the Town shall approve, which approval the Town agrees not to withhold unreasonably. Tenant shall provide and agrees that its insurance coverage and all other required insurance coverages from other parties shall be primary insurance, as respects the Town. Certificates of all policies procured by Tenant in compliance with its obligations under this Lease shall be delivered to the Town within 30 days of the Lease Execution Date, and annually on the anniversary of the Lease Execution Date and at such other times as the Town shall reasonably request. The insurance coverage shall contain a provision which prohibits the cancellation, non-renewal and/or any changes or material alterations in the coverage without providing thirty (30) days prior notice to the Town.

Tenant shall require that the Town be named as an additional insured on all Tenant's contractor's, subcontractor's and independent contractor's insurance, excluding Workers' Compensation. Tenant and its contractors, subcontractors and independent contractors and their insurers shall, to the extent permitted by their approved insurers, waive all rights of subrogation against the Town, and its officers, agents, servants, and employees for losses arising from work performed by each. Any insurance or self-insurance that the Town elects to maintain shall be excess of Tenant's insurance and from other parties' insurance and shall not contribute to it.

14.6. Restoration. In the event of physical damage to or destruction of any of the Facility at any time standing on the Premises, Tenant shall have rights and obligations regarding the repair, replacement, and rebuilding (collectively, "restoration") of the damaged or destroyed Facility, and the proceeds of insurance shall be applied, as follows:

- (a) Subject to Tenant's right to terminate as provided in this Lease, Tenant shall restore any such damage or destruction if the estimated cost of restoration does not exceed 25% of the then current market value of the Premises, and the remaining term of this Lease is five (5) years or more from the date of such damage or destruction. The proceeds of insurance shall be used to pay for such restoration, but Tenant's obligation to restore pursuant to the foregoing sentence shall not be limited by the amount of any such insurance proceeds. Any proceeds of insurance remaining after the completion of and payment for such restoration shall be deposited in a capital improvement fund to be maintained by Tenant throughout the Term of this Lease. Tenant shall provide the Town an accounting of the expenditure of any and all such insurance proceeds as provided for below. Any restoration to be performed by Tenant shall be approved by the Town prior to commencement of work.
- (b) In the event the cost of any restoration shall exceed 25% of the then current market value of the Premises, and the remaining term of the Lease is less than five (5) years, Lessee may terminate this Lease in accordance with the terms hereof, but only after the delivery to the Town of any and all insurance proceeds payable to make the necessary restoration as a result of the casualty in question.
- (c) Tenant shall provide the Town a written report detailing all insurance proceeds received by Tenant in relation to any and all claims for damage or destruction including copies of all correspondence from and to the insurer relative thereto. Copies of any and all reports to adjusters, or other assessment of the extent of damage or destruction shall be provided to the Town. All insurance proceeds shall be deposited in a separate account, and shall be identified and accounted for separately. Current status of any and all such accounts shall be reported to the Town monthly beginning on the thirtieth (30) day after receipt of the proceeds, along with a written report as to the status of any restoration. Tenant shall release monies maintained by it to pay the cost of restoration in accordance with the foregoing subsections (a) and (b). Any monies maintained by Tenant after the completion of any payment for such restoration shall be the property of Tenant if the restoration is being made pursuant to subsection (a) shall be maintained in a capital improvement fund as provided above. Any monies received in excess of the amount necessary for a restoration pursuant to subsection (b) shall be released to Tenant.
- (d) In the event that any such damage or destruction occurs as a result of the negligent or willful act or omission of Tenant, or of any subtenant, assignee or licensee of Tenant, Tenant shall be responsible for the full restoration of the damaged or destroyed Facility regardless of the cost thereof, the amount of available insurance proceeds, or the time remaining on the Term of this Lease.

XV. TAKING

15.1. Taking. If a substantial part of the Premises shall be taken by any governmental authority for any public or quasi-public use under governmental law or by right of eminent domain and such taking would materially interfere with the use of the Premises by Tenant for the purposes contemplated by this Lease, then the Lease may be terminated by either the Town or Tenant. A taking shall be deemed to “materially interfere” with the use of the Premises if the Facility no longer has the ability to handle, on an average, 1000 tons of MSW per day, measured over a sixty (60) day period. The Town or Tenant shall make such election by giving the other party written notice within sixty (60) days after the event giving rise to a right to terminate. Any such termination shall be effective thirty (30) days after the date of notice thereof. Absent a taking constituting a “material interference” with the use of the Premises, the Lease shall not be terminated by either party.

15.2 Material Interference. In the event neither Town nor Tenant exercises its right to terminate the Lease under Section 15.1, if a taking materially interferes with Tenant’s use and occupancy of any part of the Premises, a just portion of the Rent shall be abated from the date the Premises or such lesser part are rendered unusable until the date when the Premises (or in the case of a partial taking, what remains thereof) shall be put in proper condition for use and occupancy. Tenant shall receive a permanent abatement of Rent to the extent that all or any part of the Premises cannot be so used and occupied for the balance of the Term of this Lease.

15.3. Right to Damages. In case of any such taking, whether of all or any part of the Premises, and regardless of whether this Lease survives, the award allocated to the underlying fee simple title to the Premises shall belong to the Town and the award, if any, for loss of business and/or for the taking of Tenant’s fixtures and personal property within the Premises paid for by Tenant and the value of the Improvements to the Premises made by Tenant and for relocation expenses shall belong to Tenant. Tenant shall be entitled to make claim in its own name to the condemning authority for the value of said fixtures and personal property and loss of business.

Tenant shall have the right to claim and recover from the condemning authority, but not from the Town, such compensation as may be separately awarded or recoverable by Tenant in Tenant’s own right on account of any and all damage to Tenant’s leasehold interest, to Tenant’s business by reason of the condemnation, and for or on account of any cost or loss to which Tenant might be put in removing Lessee’s merchandise, furniture, fixtures, leasehold improvements and equipment.

XVI. DEFAULT, TERMINATION, AND SURRENDER

16.1. Default. If any of the following occurs, Tenant shall be in default under the terms and provisions of this Lease, and the Town may terminate this Lease in accordance with Section 16.2 and require Tenant to vacate and surrender possession of the Premises:

- (a) The revocation of any permit or approval necessary for the operation of the Facility;

- (b) The failure of Tenant to pay Rent when due;
- (c) The filing by Tenant of a voluntary petition, or the filing against Tenant of an involuntary petition, in bankruptcy or insolvency or adjudication of bankruptcy or insolvency of Tenant, or the filing by Tenant of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act, or any other present or future applicable federal, state, or other statute or law, or the assignment by Tenant for the benefit of creditors, or appointment of a Trustee, receiver, or liquidator of all or any part of the assets of Tenant, and within one hundred twenty (120) days after the commencement of any such proceeding against Tenant, such proceeding shall not have been dismissed, or if, within one hundred twenty (120) days after the appointment of any trustee, receiver, or liquidator of Tenant or of all or any part of Tenant's property, without the consent or acquiescence of Tenant, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against Tenant or any of Tenant's property pursuant to which the Premises shall be taken or occupied or attempted to be taken or occupied;
- (d) Failure by Tenant to pay any and/or all general and special assessments, duties, water rates, sewer charges, other utility charges, or fees of every kind and nature that Tenant is required to pay,
- (e) Failure by Tenant to remove from the Premises and/or Improvements of any liens (other than liens necessary to obtain financing of the Facility and other Improvements) in any way arising out of or in any way connected with the construction or operation of the Premises;
- (f) Failure by Tenant to provide the Town with the required Certificates of Insurance evidencing those coverages required pursuant to this Lease;
- (g) The assignment of all or any portion of Tenant's interest in this Lease without the Town's prior written consent;
- (h) Tenant's commission or sufferance of substantial waste to the Premises. For purposes of this Lease "substantial waste" shall be defined as intentional damage to the Premises or to the Improvements, which results in a permanent diminution to the property equal to at least 10% property's net worth;
- (i) The persistent failure of Tenant to comply with laws, rules and regulations applicable to the Facility, the non-compliance with which could have a material effect upon the Facility or the Premises. For purposes of this subparagraph, "persistent failure" shall mean that the Town has followed the procedures set forth in Section 16.2 on at least three (3) occasions within a one year period;

- (j) The abandonment or cessation of operation of the Facility by Tenant at any time during the Lease Term. For purposes of this subparagraph, abandonment or cessation of operations shall mean a 25% or greater reduction in disposal of waste for a period in excess of sixty (60) days;
- (k) Failure to make any payment to any Mortgagee beyond any cure period; and
- (l) The failure of Tenant to perform or comply with any of the other material terms or provisions contained in this Lease to be performed by Tenant.

16.2. Notice and Opportunity to Cure. Notwithstanding the foregoing, the Town shall not have the right to terminate this Lease pursuant to any provision of this Article 16 if Tenant shall commence to take actions to remedy its failure to perform or comply within thirty (30) days after the Town shall have given written notification to Tenant of such failure, or, in the case of a failure which cannot with due diligence be remedied within a period of said thirty (30) days, Tenant shall (i) promptly advise the Town of Tenant's intention to institute all steps necessary to remedy such situation which can be taken with reasonable diligence, (ii) within the thirty (30) days begin to determine the actions necessary to remedy the failure, and (iii) thereafter diligently prosecute the same to completion within such time after the notice of default as shall be reasonable under the circumstances. Notwithstanding the foregoing, Tenant must cure any monetary default hereunder no later than ten (10) days from the date it receives written notice from the Town of any such monetary default. Except as set forth above, no mention in this Lease of any specific right or remedy shall preclude the Town from exercising any other right, or from having any other remedy, or from maintaining any action to which it may otherwise be entitled either in law or in equity.

16.3. Default Due to Bankruptcy. Notwithstanding the provisions of Section 16.2 above, the Town shall not have the right to terminate this Lease in an event of default under Section 16.1(c) of this Lease if no application is made in any proceedings for a reformation or recasting of this Lease, or for any change in any of the provisions of this Lease, and if the trustee, receiver, or similar custodian of Tenant's property, shall duly perform all of the terms of this Lease, including the payment of Rent when due.

16.4. Town's Right to Enter. It is understood and agreed by the parties that, as the owner of the Premises, the Town has the right to protect the Premises from damage and deterioration due to lack of diligence by Tenant. In recognition thereof, the Town shall have the right to enter upon the Premises to inspect said Premises thereon at all reasonable times; provided that, a representative of Tenant shall have the right to accompany any representative of the Town on any such inspection. If Tenant fails to perform or comply with any of the terms or provisions contained in this Lease to be performed or complied with by Tenant, other than a failure to pay rent or an event of bankruptcy, and, after written notification from the Town, fails to cure such default within the permitted period, the Town may, at its option, and in addition to any other remedies which may be available to it, enter the Premises and effect the cure with or without prior notice to Tenant. Such entering shall not cause or constitute a termination or cancellation of this Lease or an interference with Tenant's possession of the Premises. The

Town shall have the right to do all things reasonably necessary to accomplish the work required. The cost and expense of such work shall be payable to the Town by Tenant on demand.

16.5. Surrender. Upon the expiration of the term of this Lease or upon the effective date of termination of this Lease, Tenant shall peaceably and quietly leave, surrender, and yield to the Town the Premises, the Facility (including all fixtures thereon). Title to the Facility and all permanent improvements thereon shall vest in the Town. Tenant shall promptly execute any and all documents necessary to the transfer of such title. Tenant may only remove such personal property and other machinery and equipment not attached or affixed to the Premises.. Tenant shall, at its own expense, repair any and all damage to the Premises resulting from or caused by the removal of such property. The provisions of this Section 16.5 shall survive the expiration or sooner termination of this Lease. At least three (3) months prior to the expiration of this Lease, in accordance with this Section 16.5, Tenant shall provide the Town with an inventory of all personal property that Tenant intends to remove. The Town shall not be liable or responsible for any loss of or damage to any personalty owned or held by or for Tenant, which may be on the Premises or in the Improvements when the Town takes possession of it, or required to account for any such personalty. Any such personalty shall be considered abandoned by Tenant, and title thereto shall vest in the Town upon the date of expiration of this Lease, unless otherwise provided by the parties in writing prior to such expiration or termination. In the event of the expiration or other termination of this Lease, Tenant shall, to the extent permitted by law, assign or otherwise transfer the Permits to the Town, along with all other licenses, permits and approvals necessary for the use and operation of the Facility, and all warranties. If application to any governmental agency is necessary for such transfer, Tenant shall initiate any such proceeding and shall assist the Town throughout such proceeding, even if such proceeding continues after the expiration or termination of this Lease.

XVII. ASSIGNMENT, SUBLEASE

17.1. Prohibition Against Assignment and Sublease. Tenant shall not assign, transfer, convey, sublet, encumber or dispose of this Lease or any part thereof, or transfer its right, title or interest in the whole or any part of the Premises, or enter into any agreement with any entity or person, to exercise management control over the operations authorized hereunder or any part thereof (referred to, collectively, as a “Transfer”), without the prior written consent of the Town, which shall not be unreasonably withheld. Any purported Transfer not agreed to by the Town or conforming to the following provisions of this Section shall be void and without legal effect. If the Town consents to a proposed assignment, then the proposed transferee shall deliver to the Town a written agreement whereby it expressly assumes Tenant’s obligations hereunder. The Town’s consent to any Transfer shall not waive the Town’s rights as to any subsequent Transfers. Notwithstanding the foregoing, the Town expressly agrees to the assignment of this Lease to TLA-Holbrook LLC, a Delaware limited liability company (“TLA-Holbrook”). By its execution of this Lease, the Town acknowledges and approves of TLA-Holbrook’s becoming the Tenant under this Lease upon the Town’s receipt of notice of assignment (“Notice of Assignment”) without the requirement of any future action on the part of the Town, which Notice of Assignment shall be executed by TLA-Holbrook, and pursuant to which TLA-Holbrook shall assume any and all obligations of Tenant under this Lease. The Town further agrees that it will

execute an acknowledgment of the assignment of the Lease if requested to do so by either the Tenant or TLA-Holbrook, and that such assignment may be recorded in the Norfolk County Registry of Deeds.

17.2. Merger and Consolidation. Notwithstanding any of the foregoing, in the event Tenant merges with, is acquired by, or is otherwise consolidated into another corporation or entity, Tenant shall have the right, with prior written notice to the Town and subject to the following conditions, to assign Tenant's interest in this Lease to the resulting merged or consolidated corporation or other entity ("assignee") provided (i) the assignee shall succeed to the business, goodwill and all or substantially all of the assets of Tenant, (ii) Tenant shall continue to employ the key personnel working on the Facility and maintain all of the capacity and qualifications related to the Lease which it had at the time the Lease was awarded, (iii) Tenant shall deliver to the Town prior to execution by the Tenant a copy of the instrument by which the assignment of this Lease to said assignee will be effectuated, and (iv) the assignee shall execute, acknowledge and deliver to the Town an agreement, in form reasonably satisfactory to the Town, assuming the observance and performance of all of the terms, covenants and conditions of this Lease on Tenant's part to be observed and/or performed.

17.3. Ability to Sublease. As contemplated in Section 2.3 hereof, Tenant may enter into a sublease with Falvey for a portion of the Premises. Additionally, Tenant may enter into a sublease for a portion of the Premises with any third party; provided that, any such sublease does not interfere with Tenant's obligations hereunder, and is subject to prior approval by the Town, which approval shall not be unreasonably withheld, conditioned or delayed. Any rents received by Tenant under any sublease permitted hereunder may be retained by Tenant, provided that Tenant makes payment to the Town in the amount of 25% of the gross rents payable under any sublease. Notwithstanding the foregoing, in the event Tenant enters into a sublease with an entity having common ownership or common management with Tenant, Tenant shall be entitled to retain all rent collected.

XVIII. ACCOUNTING, REPORTING, and INSPECTIONS

18.1. Access to Records. Tenant shall maintain all books, records and other compilations of data that Tenant has which pertain to the performance of the provisions and requirements of this Lease, including without limitation all original invoices and payment schedules relating to the operation of the Facility, all trucking records, weight slips, and any and all other documents pertaining to the amount of waste handled at the Facility per day (the "Supporting Documentation"). With the payment of Rent each month, Tenant shall provide the Town with a report summarizing the total amount of waste that was actually handled at the Premises during the past month (the "Monthly Report"). Tenant shall provide the Town with such additional information and a copy of the Supporting Documentation as to allow the Town to accurately determine the same. No later than thirty (30) days from the termination of a Lease Year, Tenant shall submit an annual report providing a detailed analysis of, together with a copy of, the Supporting Documentation, pertaining to the amount of waste handled at the Facility during the past Lease Year (the "Annual Report"). The Monthly Reports and the Annual Reports are referred to, collectively, as the "Reports." Tenant agrees to preserve such Reports for a period of at least three years or longer, if required by law, following the close of each Lease Year.

18.2. Duty to Provide Information. Tenant shall furnish to the Town, within a reasonable time, any information which the Town may reasonably request which is relevant to determine whether Tenant is complying with the terms of this Lease.

18.3. Inspection. Tenant shall at all reasonable times allow the Town, and its employees, agents and representatives, to inspect and audit the Supporting Documentation and the Reports. In the event the Town is not satisfied with any Report submitted by Tenant, the Town shall have the right to have its auditors make a special audit of all Supporting Documentation and other books and records, wherever located, pertaining to the amount of waste accepted at the Premises during the period in question. If such Reports are found to be incorrect to an extent of more than two percent (2%) over the figures submitted by Tenant, Tenant shall pay for such audit. Tenant shall promptly pay to the Town any deficiency which is established by such audit.

18.4. Treble Damages. In the event the Town, through its inspection of the Supporting Documentation, an audit, or otherwise, determines that the Tenant has provided intentionally misleading or fraudulent information relative to the amount of waste handled at the Facility, Tenant shall pay Landlord the amount due, plus treble said amount as a penalty.

XIX. MISCELLANEOUS

19.1. Notice of Lease. At the request of Tenant, the Town promptly shall execute and deliver a Notice of Lease, in form and substance acceptable to Tenant in its sole discretion, which Notice will contain the information required by statute as well as such additional information as Tenant and/or the Town may choose. Tenant, or the Town at its option and expense, may record such Notice of Lease or a copy of this Lease in the Norfolk County Registry of Deeds.

19.2. Status of The Town. The Town shall in no event be construed, held, or become, in any way or for any purpose, a partner of, associate of, or joint venturer with Tenant or any party associated with Tenant in the conduct of its business or otherwise. Tenant, its officers, agents, servants and/or employees shall in no event be construed, held or become, in any way or for any purpose, agents, servants, employees or independent contractors of the Town.

19.3. Exercise of Regulatory Jurisdiction. Nothing contained in this Lease shall be construed to limit the authority of the Town or the Board of Health to take any enforcement or other action authorized by law with respect to the Facility, specifically including, without limitation, any enforcement action under Massachusetts General Laws Chapter 111, Section 150A, and any action to abate a nuisance or to address a condition that threatens the public health, safety or welfare.

19.4. Notice. All notices or other communications to be given or conveyed to Tenant shall be delivered or sent by certified mail, return receipt requested, addressed to Tenant at the address listed above in the Preamble and at the Facility. All notices or other communications to be given or conveyed to the Town, including the Board of Health and any other boards and officers, shall be delivered or sent by certified mail, return receipt requested, addressed to the

address set forth in the Preamble, with a copy to: Mark R. Reich, Esq., Kopelman and Paige, P.C., 101 Arch Street, Boston, MA 02110. Any notices or other communications to be given or conveyed to the Tenant shall be delivered or sent by certified mail, return receipt requested, addressed to the address set forth in the Preamble, with a copy to: William F. Merrigan, Esq., Merrigan & Merrigan, 10 Forbes Road, #110, Braintree, MA 02184. Any party hereto may change its address for purposes of giving notice or conveying communications by notice given to the other parties in the manner herein provided.

19.5. Binding Effect. This Agreement shall be binding upon the parties hereto and their respective successors and assigns, including all successors to Tenant as owners or operators of the Facility. Subject to Article XVII of this Lease, Tenant further agrees that it will not sell, lease, or otherwise dispose of the Facility to any person or entity that intends to continue the operations thereof, without first obtaining the written agreement of such person or entity to be bound by this Lease.

19.6. Force Majeure. No party shall be liable for its failure, in whole or in part, to perform hereunder (except for the obligation to pay Rent (other than Base Rent)) due to conditions beyond its reasonable control, including, but not limited to, strike, fire, storm, act of God, injunction or the requirement to comply with any law, regulation or order of any governmental body or instrumentality.

19.7. Amendment of or Modification to Agreement. This Lease sets forth the entire Agreement between the parties, and may be amended or modified only by a written instrument executed by the duly authorized officials and officers, as the case may be, of the Town and Tenant.

19.8. Severability. If any provision of this Agreement is determined to be invalid or unenforceable for any reason, it shall be interpreted or construed to the extent possible so as to accord it maximum effect, and the remaining provisions of this Agreement shall remain in full force and effect without alteration, except as the context may require.

19.9. Entire Agreement. This Lease constitutes the entire agreement between the parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the parties with respect to the subject matter hereof and thereof. No agreement or understanding varying or extending the same shall be binding upon either party unless in writing signed by both parties.

19.10. Captions. The captions or headings in this Lease are for purposes of reference only and shall not limit or define the meaning hereof.

19.11. Counterparts. This Lease may be executed in any number of counterparts, each of which is an original, but all of which shall constitute one instrument.

19.12. Governing Law. This Lease is to be governed by the laws of the Commonwealth of Massachusetts. The parties agree to bring any action to enforce the terms of this Lease in the appropriate court of the Commonwealth of Massachusetts.

XX. RIGHTS UPON OFFER OF PREMISES

20.1 Right of First Offer. Subject to the provisions of Section 20.2, in the event the Town determines to offer for sale, or otherwise transfer all or a portion of the Premises ("Transfer the Premises"), the Town shall first offer to Transfer the Premises to the Tenant at a price to be determined by mutual agreement of the parties. In the event that Tenant and the Town are unable to come to a mutual agreement regarding the purported Transfer of the Premises within sixty (60) days following the Town's notice of its intent to Transfer the Premises, the Town may proceed with its offer; provided however, that no such Transfer of the Premises may be effected which will affect the rights of the Tenant hereunder. Without limiting the generality of the foregoing, any such Transfer of the Premises or mortgage of the Premises by the Town shall be specifically subordinated to the terms of this Lease, and Tenant's interest herein shall be protected by a recordable non-disturbance agreement in form and substance satisfactory to Tenant.

20.2. Applicability of Chapter 30B. In the event the Town determines to offer the Premises for sale or other disposition, and the sale or other disposition is subject to Chapter 30B, the Tenant's rights under Section 20.1 shall be extinguished. Town shall nevertheless give notice to Tenant of the Town's intention to sell or dispose of the Premises, including providing a copy of any Request for Proposals issued in connection with such proposed sale or other disposition. Tenant shall, if it so elects, submit a proposal in response to the Request for Proposals, which proposal shall be considered in accordance with the standards and factors set forth in the Request for Proposals. The failure of the Town to give the notice to the Tenant of its intention to sell or otherwise dispose of the Premises shall not void, or make voidable, the conveyance of the Premises to a third party.

XXI. REPRESENTATIONS

21.1. Hours of Operation. The Tenant agrees that the hours of operation for the purpose of accepting materials will be from 6:00 a.m. to 6:00 p.m., Monday through Saturday. Additional on-site operations may be undertaken until no later than 9:00 p.m. Notwithstanding the foregoing restrictions, the Town agrees that Tenant may conduct operations at the Facility at any time which is necessary for its compliance with maintenance and other standards imposed by the Permits. The Facility will be closed on Sundays and major holidays. The parties acknowledge that workers will be on the Premises to open and close the Facility approximately one hour before and one hour after normal operating hours. All operations shall be subject to any requirements imposed under the permits and approvals issued by Town's Board of Health and Planning Board, or any other regulatory entity with authority thereto.

21.2. Transfer Station Purposes. The Tenant agrees that the Facility will, under no circumstances, burn waste, now or in the future. The Tenant agrees that the Facility will not serve as a hazardous waste transfer station. The Tenant agrees that the primary purpose of the Facility will be that of a solid waste transfer and recycling facility.

21.3. Baling System. Subject to the contingencies contained herein, the Tenant agrees to construct and implement odor mitigation and baling system that effectively wraps and bundles waste prior to rail car transit.

21.4. No Federal Surface Transportation Exemption. The Tenant agrees not to apply for a so-called "federal surface transportation railroad exemption," now or in the future, and further agrees to remain subject to local jurisdiction throughout the Lease Term, and any extension thereof.

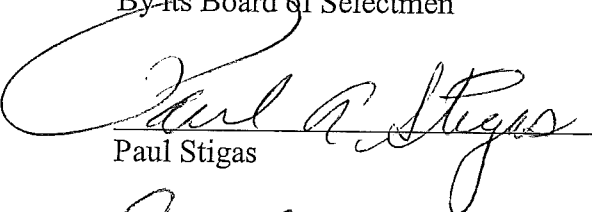
21.5. Truck Access Routes. Except for Tenant's obligations to pick up trash and meet its obligations to the Town under Section 6.8 hereof, the Tenant agrees to route truck traffic to the Facility in a manner that utilizes main access roads to the maximum extent possible.

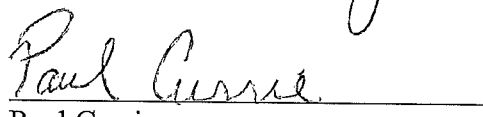
21.6. Mitigation Systems and Policies. The Tenant agrees to implement odor, noise, litter, security and pest mitigation systems and policies.

21.7. No Gypsum Recycling. The Tenant agrees not to operate a gypsum recycling facility on the Premises.

Executed as a document under seal this 19th day of February, 2009.

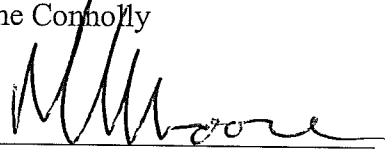
TOWN OF HOLBROOK,
By its Board of Selectmen


Paul Stigas


Paul Currie


Richard McGaughey

Katherine Connolly


Matthew Moore

HOLBROOK ENVIRONMENTAL
LOGISTICAL PARTNERSHIP, LLC

By: 
Michael Gustin, Manager

EXHIBIT A
PROPERTY DESCRIPTION

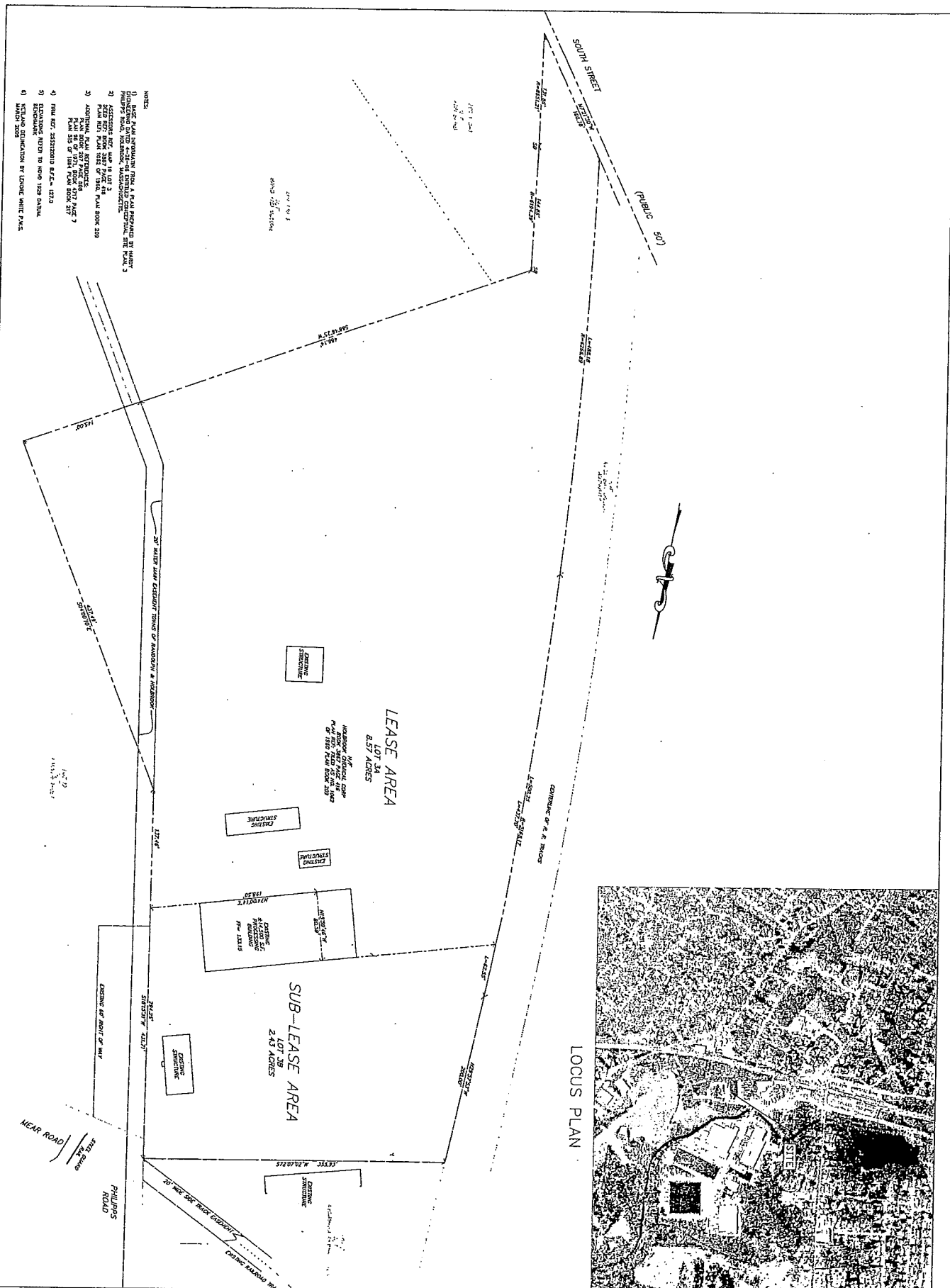
Holbrook, MA

That certain parcel of land situated in Holbrook in the County of Norfolk and Commonwealth of Massachusetts, being shown on a plan entitled: "Plan of Land Holbrook, Mass.", dated June 1, 1960 prepared by Joseph Selwyn - Civil Engineer, which plan is recorded in the Norfolk County Registry of Deeds as plan #1062 of 1960 in Book 209, bounded and described as follows:

Beginning at a stone bound marking the intersection of the easterly location line of South Street, Holbrook, as laid out in March 1927 by the Norfolk County Commissioners, and the easterly location line of the Middleboro Branch of the Old Colony Railroad right of way;
thence running northerly along said railroad location line along an arc of radius 6266.89 for a distance of 488.18 feet to a point of common curvature and the beginning of another arc;
thence along said second arc of radius 5168.17, a distance of 500.25 feet to a point of tangency on said railroad location sideline;
thence running N29-57-53E, a distance of 200.00 feet;
thence turning and running S72-07-02E, a distance of 355.93 feet by land now or formerly of Peerless Realty Company to a proposed street;
thence turning and running along the westerly layout line of said proposed street S18-15-31W, a distance of 431.71 feet to an angle point in said westerly location line;
thence turning and running S4-00-10E along said location line a distance of 437.49 feet;
thence turning and running S88-46-25W, a distance of 145 feet to an existing iron pipe marking the northeasterly corner of the land now or formerly of Baird & McGuire, Inc;
thence continuing along the same course a distance of 486.14 feet to a concrete bound marking the northwesterly corner of land now or formerly of said Baird & McGuire, Inc;
thence turning and running on a curve of 6194.39 radius, a distance of 144.86 feet;
thence deflecting to the left on a curve of 8651.21 radius, a distance of 132.03 feet to a point on the easterly location line of the aforementioned South Street; thence turning and running along said easterly location line N7-21-30W, a distance of 160.78 feet to the point of beginning; containing a total of approximately 11 acres.

Together with a common right of way twenty feet wide beginning on Water Street and continuing along on the land of Peerless Realty Company as shown on Plan recorded in Plan Book 208, Page 293, Norfolk Deeds, and referred to in deed from Peerless Realty Company to The Portland Chemical Works, Incorporated, dated March 11, 1960, and recorded with Norfolk Deeds, Book 3802, Page 579.

3 PHILLIPS RD.



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KEY	DESCRIPTION	DATE
DISPOSED BY:	CHECKED BY:	
DRAWN BY:	FILE:	



95 Cadiz Street
Providence, Rhode Island
1-401-335-7877
www.woodardclark.com

COMMITMENT & INTEGRITY DRIVE RESULTS

SCHEDULE XIII

INDEMNITY. Lessee shall and does hereby indemnify, defend, protect and save harmless Lessor and Owner from and against any and all claims, causes of action, judgments, damages, losses, liability, and expense, including, but not limited to, attorney fees and court costs, arising from loss of life, personal injury and/or damage to property occurring in or about, or arising from or out of, the Premises and adjacent areas caused wholly or in part by any act or omission of Lessee, its agents, contractors, customers, employees or invitees. Notwithstanding anything to the contrary herein, the provisions of this entire Section shall survive the expiration or the termination of this Sublease.

March 26, 2009

RECEIVED

APR 08 2009

cc: Board of Selectmen
Mark Reich, Esq.

Town of Holbrook
50 North Franklin Street
Holbrook, Massachusetts 02343

Re: Notice of Assignment of Lease and Host Community Agreement

Dear Sir or Madam:


Pursuant to section 17.1 of that certain Lease and Host Community Agreement, dated February 19, 2009, by and between the Town of Holbrook, Massachusetts and Holbrook Environmental Logistical Partnership, LLC, a Massachusetts limited liability company (the "Lease Agreement"), TLA-Holbrook LLC, a Delaware limited liability company, is hereby providing the Town of Holbrook with this Notice of Assignment. Upon the Town of Holbrook's receipt of this Notice of Assignment, TLA-Holbrook LLC shall become the Tenant under the Lease Agreement.

All notices or other communications to be given or conveyed to TLA-Holbrook LLC, as the Tenant, shall be delivered or sent as to TLA-Holbrook LLC, as follows:

TLA-Holbrook LLC
c/o TransLoad America Inc.
76 South Orange Avenue, Suite 208
South Orange, New Jersey 07079-1923
Attn: Chairman/CEO

Sincerely,

TLA-HOLBROOK LLC



Marlene P. Wheaton,
Vice President